

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

UNITED STATES OF AMERICA

v.

MICHAEL SMITH

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Case No.: 3:06cr31-W

**MOTION TO WITHDRAW AS COUNSEL OF RECORD
AND FOR APPOINTMENT OF CJA PANEL ATTORNEY**

_____ **COMES NOW** the undersigned counsel, Jennifer A. Hart, and files this Motion to withdraw as counsel of record and for appointment of a CJA panel attorney on behalf of Defendant Michael Smith. In support of this Motion, counsel states the following:

1. Undersigned counsel filed a Notice of Appearance in this case.
2. Undersigned counsel has discovered a conflict of interest, related to the simultaneous representation by counsel's office of Brian Clark in Case No. 3:06-cr-30-WHA. Although separately indicted for separate firearms, both men are charged with felonious possession of firearms at the same address in Lee County on the same day. Thus, potentially adversarial defenses exist, requiring counsel to withdraw.
3. On behalf of Mr. Smith, undersigned counsel requests that CJA panel attorney Cracker Waldrop be appointed to represent Mr. Smith in all further proceedings in this case. Mr. Smith will not be prejudiced by such a change in counsel at this time. Mr. Waldrop has indicated his willingness to accept appointment and will file a Notice of Appearance.

WHEREFORE, undersigned counsel prays that the office of the Federal Defender be permitted to withdraw from the representation of Mr. Smith and that Cracker Waldrop be appointed to represent him.

Respectfully submitted,

s/Jennifer A. Hart

JENNIFER A. HART

FEDERAL DEFENDERS

MIDDLE DISTRICT OF ALABAMA

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CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Clark Morris, AUSA
One Court Square, Suite 201
Montgomery, Alabama 36104

Respectfully submitted,

s/Jennifer A. Hart

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